BEFORE THE
COPYRIGHT ROYALTY TRIBUNAL
WASHINGTON, D.C.

In the Matter of

Compulsory License for Secondary
Transmissions by Cable Systems;
Royalty Adjustment Proceeding.

JOINT COMMENTS OF COPYRIGHT OWNERS

American Society of Composers, Authors and Publishers, Broadcast Music, Inc., Major League Baseball, Motion Picture Association of America, Inc., National Association of Broadcasters, National Basketball Association, National Hockey League, and North American Soccer League (hereinafter "Copyright Owners") submit these joint comments in response to the Copyright Royalty Tribunal's notice of January 1, 1980. 45 Fed. Reg. 63.

INTRODUCTION

This proceeding was commenced pursuant to 17 USC 804(a) which requires the Tribunal to determine the extent to which cable royalty rates must be adjusted to maintain the real constant dollar level of the royalty fee per subscriber which existed on October 19, 1976, the date of enactment of the General Revision of Copyright Law, P.L. 94-553. Such adjustment of the cable royalty rates is to be made under the authority of the Tribunal as set forth in 17 USC 801(b)(2)(A).

The House Report on the Copyright Revision Bill, H. Rep. No. 94-1476, 94th Cong. 2d Sess. (hereinafter "House Report") succinctly describes the purpose of this proceeding as follows:

> The purpose of this provision is to assure that the value of the royalty fee paid by cable systems is not eroded by changes in the value of the dollar or changes in average rates charged cable subscribers. (At page 175).

The statute and its legislative history provide little guidance as to the manner in which this Congressional intent is to be carried out. The Tribunal has been given considerable latitude and discretion to adapt its decisions to rapidly changing circumstances. The wisdom of granting the Tribunal such wide flexibility has been confirmed by the fact that drastic changes in cable technology and marketing techniques have taken place since the 1976 Copyright Revision Act was enacted.

Copyright Owners urge the Tribunal to exercise its broad authority in this proceeding to meet the following objectives:

First, the Tribunal's decision should, as the statute directs, provide copyright owners with a real level of compensation for the use of their works by cable systems equal to that provided in the 1976 rate schedule.

Second, the Tribunal's decision should provide a self-adjusting mechanism to provide copyright owners with the real constant dollar level of royalty payments contemplated by the statute on a continuing basis. This will reduce the need for repeated rate adjustment proceedings to (1) bring the royalty rates up to their proper real constant dollar level and (2) make up for deficiences in the fees paid by cable systems in the periods between rate adjustment proceedings.

Third, the Tribunal's decision should provide a mechanism for establishing royalty rates compatible with changing cable technology and marketing practices.

It is with these objectives in mind that Copyright Owners propose that the Tribunal provide for cable royalty payments based upon the present value of basic subscriber charges as they existed in 1976. Such action would taylor the royalty payment of each cable system "to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this legislation." (House Report, page 175.)

Before this proposal is discussed in detail, it is appropriate to review the economic and marketplace circumstances that require its adoption by the Tribunal.

THE REAL CONSTANT DOLLAR LEVEL OF CABLE ROYALTY FEES HAS BEEN SIGNIFICANTLY ERODED SINCE 1976

A comparison of basic cable service charges to subscribers with the rate of inflation since 1976 as measured by the Consumer Price Index reveals that subscriber charges have lagged behind inflation by more than 15%. Because cable royalty payments are computed on the basis of gross subscriber revenues, this means that by the end of 1979 copyright owners were receiving less than 85% of the real constant dollar level of compensation from cable systems that Congress provided for in the 1976 Act. This shortfall will undoubtedly increase in 1980.

Growth of Basic Cable Subscribers.

The number of basic cable subscribers over the past four years has increased 37.4% from 11.6 million to an estimated 16 million. There was a 13.4% increase in the number of basic cable subscribers from 1978 to 1979 compared to 10% increases in 1977 and 1978.

Table 1

Year	Basic Cable Subscribers (000)	Percent Change
1979	16,000 (e)	+13.4%
1978	14,114	+10.0
1977	12,832	+10.2
1976	11,648	+18.1
1975	9,863	

Source: "Cable Television Industry Revenues Exceeded $1.5 Billion in 1978; Total Assets Approached $3 Billion," F.C.C. News Release No. 23923, Nov. 26, 1979. 1979 estimate from Kagan, Paul, Editor, Cablecast, Paul Kagan Associates, Inc., Carmel, CA, P. 3 (Nov. 16, 1979).

The percentage of American TV households that subscribe to cable TV increased from 14.2% in 1975 to 21.0% in 1979.

Table 2

Year	TV Households (000)	Basic Cable Saturation (Cable subs/TV Households
1979	76,300	21.0%
1978	74,500	18.9
1977	73,300	17.5
1976	71,200	16.4
1975	69,600	14.2

Source: TV Households estimated by A.C. Nielsen Co.

Consumer Price Index & Basic Cable Rates

Since passage of the Copyright Act of 1976, the Consumer Price Index (CPI), considered the most widely accepted measure of inflation, has risen 38.4%, from 173.3 in October 1976 to 239.8 in March 1980, the latest date for which data are available. Thus, a cable operator charging $6.49 in October 1976 (the FCC average) would have to charge $8.98 in March 1980 just to keep pace with inflation.

The following table compares the rise in the CPI to annual increases in average cable TV basic monthly service charges, as measured by the FCC and by Paul Kagan Associates, Inc.

Table 3

			FCC	FCC	PKA	PKA
Date	Consumer Price Index	% Change	Basic Cable Rates	% Change	Average Basic Rate	% Change
1973	133.1					
1974	147.7	+11.0				
1975	161.2	+ 9.1	$6.21		$6.48	
1976	170.5	+ 5.8	6.49	+4.5%	6.72	+3.7%
1977	181.5	+ 6.5	6.85	+5.6	7.00	+4.2
1978	195.4	~~+13.9~~ 7.7	7.03	+2.6	7.26	+3.7
1979	217.4	+11.3			7.53	+3.7

FCC data referenced to various fiscal years used by individual cable systems. PKA data uniformly referenced to December 31.

Table 3 shows that FCC-measured basic cable rates increased 13.2% from $6.21 to $7.03 between 1975 and 1978 while the CPI went up 21.2% over the same period.* Similarly, the PKA average basic rate rose 12.0% from $6.48 to $7.26 between 1975 and 1978.

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*According to the FCC, in 1975 the standard deviation calculated for the $6.21 average rate was $.57. Thus, the rate could have varied between $5.64 and $6.78. The Commission did not calculate standard deviation for 1977 and 1978 data.

The difference between FCC and PKA average rates is due partly to variations in data gathering methodology, partly to the nature of the two reports. The difference between basic service charges shown in the two data bases is very small: 4.3% in 1975, 3.5% in 1976, 2.2% in 1977, and 3.3% in 1978. FCC and PKA reports both indicate that basic rates increased more rapidly from 1976 to 1977 than from 1975 to 1976 or from 1977 to 1978.

Whatever the reason for the differences that exist, it is clear that basic monthly service charges, as measured by both the FCC and PKA, have not moved up in tandem with the CPI. From 1975-78, the FCC-measured basic rates lagged the CPI by ~~8%~~ 7.1 while PKA-measured basic rates lagged by ~~9%~~ 8.2 over the same period. From 1976-79, PKA basic rates moved up 12.1% compared to a 27.5% increase in the CPI. Again, cable rates trailed the CPI by ~~15.4%~~ 13.8.

Moreover, basic rates have fallen increasingly further behind percentage increases in the CPI. Table 4 shows that PKA-measured rate increases in 1976 and 1977 trailed CPI increases by 2.1% and 2.3%, but the gap widened to ~~10.2%~~ 4.0 in 1978 and 8.6% in 1979.

Between 1975 and March 1980, the CPI increased 48.8%. To keep pace with inflation, a cable operator charging $6.72 in 1976 would have to charge ~~$10.00~~ 9.45 today.

Table 4

Date	(1) % Change CPI	(2) % Change PKA Basic Rates	(3) (1)-(2)	(4) Rate Necessary to Keep Pace with Inflation
1976	+5.8%	+3.7%	2.1%	$6.72
1977	+6.5%	+4.2%	2.3%	7.16
1978	~~+13.9~~ 7.7	+3.7%	~~10.2%~~ 4.0	~~8.15~~ 7.70
1979	+11.3%	+3.7	8.6%	~~9.07~~ 8.57
March 1980	+10.3%	n.a.	n.a.	~~10.00~~ 9.45

Cable Rates Compared By System Size

Because cable TV companies are actively seeking and winning top 100 TV market franchises where the vast majority of the U.S. TV homes are concentrated, PKA Pay TV Census data based upon the number of basic cable subscribers (see Table 6) were analyzed and separated into three categories: 20,000 or more, 10,000-19,999, and under 10,000.

The Dec. 1979 Census shows that a high percentage of basic cable subscribers are concentrated in the 154 cable systems with over 20,000 basic subscribers. Nonetheless, small cable systems with under 10,000 basic cable subscribers represent approximately 77.6% of all systems, according to the 1979 Census.

The table below shows that basic rates in intermediate size systems have increased more rapidly than basic rates in large or small systems from 1976-79.

Table 5

Year	Total Avg. Basic Rate	20,000 + Subs Avg. Basic Rate		10,000-19,999 Subs Avg. Basic Rate		Under 10,000 Subs Avg. Basic Rate	
1976	$6.72	$6.81		$6.65		$6.63	
1978	7.26	7.28	+ 6.5%	7.28	+ 9.5%	7.26	+ 9.5%
1979	7.53	7.52	+ 3.7%	7.82	+ 7.4%	7.34	+ 1.1%
76-79	12.1%	10.4%		17.6%		10.7%	

While basic service rates charges by large systems in 1978 and 1979 closely approximate the national average, their basic monthly service charges, 1978 vs. 1976, increased at a rate of only 6.5%

compared to 9.5% for both intermediate and small systems. From 1978-79, large system basic rates moved up 3.7% while intermediate system rates increased by 7.4%.

Average basic cable rates for 20,000+ subscriber systems in 1976 were less than 3% higher than basic rates for small and intermediate size systems.

In 1978, the average basic rate for large systems was $7.25 which was within pennies of the average rates of intermediate and small systems. The average rate for large systems last year was 3.8% lower than the average rate for intermediate size systems and 2.5% higher than the average basic service rate for small systems.

Average Basic Cable Charges Are Less Than

What Most Subscribers Are Willing To Pay

It is significant that most cable subscribers are willing to pay more than what cable systems are charging for basic service. Insofar as consumer elasticity of demand is concerned, a recent marketing study by Peter D. Hart Research Associates, Inc. states the following:

> Among those with positive attitudes toward cable there is little resistance to monthly fees of $10 or less for cable service without the special entertainment channel, and to additional monthly fees of $7.50 or less for the special entertainment channel. ("A Survey of Attitudes Toward Cable Television," Peter D. Hart Research Associates, Inc., June 1979, p. 13)

The study, which was commissioned by the National Cable Television Association, goes on to state:

Table 6

20,000 + Basic Cable Subscribers

Date	Systems	% of Total	Homes Passed (000)	% of Total	Basic Subs (000)	% of Total	Avg. Basic Rate
12/31/76	58	15.9%	5,635	61.3%	2,043	46.7%	$6.81
12/31/78	121	11.8%	8,173	44.6%	3,962	42.2%	7.25
12/31/79	154	8.5%	10,061	39.1%	5,114	36.9%	7.52

10,000-19,999 Basic Cable Subscribers

Date	Systems	% of Total	Homes Passed (000)	% of Total	Basic Subs (000)	% of Total	Avg. Basic Rate
12/31/76	99	27.2%	2,658	26.8%	1,361	31.1%	$6.65
12/31/78	190	18.5%	4,670	25.5%	2,576	27.4%	7.28
12/31/79	254	13.9%	6,303	24.5%	3,497	25.2%	7.82

Under 10,000 Basic Cable Subscribers

Date	Systems	% of Total	Homes Passed (000)	% of Total	Basic Subs (000)	% of Total	Avg. Basic Rate
12/31/76	207	56.9%	1,626	16.4%	966	22.1%	$6.63
12/31/78	718	69.8%	5,495	30.0%	2,859	30.4%	7.26
12/31/79	1414	77.6%	9,347	36.3%	5,258	37.9%	7.34

Source: Pay TV Census

(A)mong the near-majority of all respondents who indicate high interest in cable and who volunteer a specific dollar amount, most volunteer at least $10 as a reasonable fee for this service. The figures volunteered vary somewhat, but not greatly, with income; after the $10,000 income level, a steady proporation of about 40% volunteer $10 or more as a reasonable fee. Younger respondents are more likely than their elders to volunteer a fee of $10 or more, reflecting their greater interest in cable and perhaps the fact that most of their experience with prices has been in the inflationary evnironment of recent years.

When respondents are presented with specific fees, they tend to say that fees which are even higher than those they volunteered are reasonable, suggesting that there is some willingness to accept fees somewhat higher than what initially comes to their minds. Just 29% say that a monthly fee of $15 would be reasonable, but a near-majority, 48%, accept as reasonable a fee of $10 and 61% feel that $7.50 is reasonable. At the $10 level, 64% of those with high interest and 51% of those with medium interest believe the fee is reasonable; at this and at lower fee levels resistance is concentrated among those with low interest in cable television."

The foregoing demonstrates that the cable royalty rates must indeed by revised to provide copyright owners with the real constant dollar level of compensation provided for by Congress in the 1976 Act. PKA data, the latest available, show that basic cable charges increased 12.1% between December 31, 1976, and December 31, 1979. This compares to a 27.5% increase in the CPI during the same period. Thus, a ~~15.4%~~ 13.8 increase in cable royalty rates would be necessary to provide, as of January 1, 1980, the real constant dollar level of the royalty fee per subscriber which existed as of January 1, 1977. Of course, such a ~~15.4%~~ 13.8 increase in the royalty rates would not compensate for any erosion of the real value of the royalty fees that occured between October

19 and December 31, 1976, and between January 1, 1980 and the effective date of the Tribunal's decision in this proceeding.

It must be recognized, however, that any such single percentage increase would not extinguish the Tribunal's rate review responsibility as set forth in the Act.

A SIMPLE PERCENTAGE INCREASE WILL NOT MAINTAIN THE REAL CONSTANT DOLLAR ROYALTY LEVEL

The purpose of the rate review proceeding provided for in Section 801(b)(2)(A) "is to assure that the value of the royalty fees paid by cable systems is not eroded by changes in the value of the dollar or changes in average rates charged cable subscribers." House Report, page 175. If this statutory purpose is to be achieved, it is not enough to merely play catch-up with the royalty rates every five year.

If the royalty rates were revised upward by 15.4% to reflect the 1976 constant dollar level of payment in time to be included in Statements of Account for the first half of 1980, such an adjustment would still not provide the level of compensation intended by Congress. Some provision would have to be made to make up for the shortfall in royalty payments for 1978 and 1979. Table 3 clearly shows that subscriber rates lagged far behind inflation in 1978 and 1979. Therefore, royalty payments for those years were far below their 1976 real constant dollar level.

More importantly, a one-time adjustment in the royalty rates today will not assure that copyright owners are compensated at the Congressionally specified level even for the second half of 1980, let alone for 1981, and subsequent years until the next rate review proceeding. If, as is probable, the past trend continues, any royalty fee balance achieved this year will almost immediately drop out of balance again. Copyright owners will again be undercompensated until the next adjustment is made in 1985. Thus, the royalty rates will constantly fall short of their proper level, and the Tribunal will be required to conduct lengthy proceedings every five years to determine what the rates should be as of the date of the adjustment, what additional increment is necessary to make up for shortfalls in previous years, and what further increments may be required in anticipation of future shortfalls.

Copyright Owners submit that such a process would be unnecessarily complex, unduly burdensome for the Tribunal as well as the parties concerned, inherently speculative, and wholly unsuited to meet the statutory objective. Moreover, the results of such simple periodic adjustments to the existing scheme will not be compatible with new trands in cable marketing.

THE TRIBUNAL MUST TAKE INTO ACCOUNT "TIERED" AND "FREE" CABLE SERVICE OFFERINGS

There is a growing trend in the cable industry to offer "tiered" service packages, some of which are provided "free" to the subscriber.* According to Paul Kagan Associates, 28 out of 1,029 cable systems providing pay TV in 1978 offered more than one service tier. One year later, in 1979, 139 out of 1,822 such systems were offering more than one service tier. The following analysis of cable franchise applications for three major cities illustrates this trend.

CINCINNATI, OHIO (160,000 TV Homes)

Company	Basic Service Tiers				Pay TV Tiers			
	(1)	(2)	(3)	(4)	HBO	Showtime	Movie Ch.	Mini-Pay
Cablecom-General	(14)$2.95	(21)$5.45	—	—	$6.95	—	$7.95	$3.95
Cincinnati Cable	(12) Free	(21)$4.95	(40)$7.50	(66)$9.60	$6.95	$6.95	$6.95	$3.95
MetroVision	(12) Free	(17)$4.00	(52)$7.50	—	$7.50	$7.50	$7.50	$3.95
Queen City	(9) Free	(18)$5.25	(61)$7.25	(66)$9.95	$7.95	$7.95	$7.95	$3.95
Teleprompter	(16)$1.95	(34)$5.50	(61)$6.95	—	$7.50	$7.50	$7.50	$3.95
Warner-Amex	(24)$3.95	(42)$6.95	(60)$9.45	(86)$10.45	$7.00	—	$6.75	$3.95

Notes: Number before rate denotes number of channels. All of the applicants promised Take II mini-pay, except Teleprompter which offered Front Row. Cincinnati Cablevision also offered HTN. Cablecom-General offered a $1.00/mo. classic movie ch. and a total of 37 ch's counting distant signals, news, sports, etc. Teleprompter also promised Galavision for $7.95. Cincinnati Cable requires 66-ch. subs to take one maxi-pay and offered discounts to multiple tier pay TV subs. MetroVision and Teleprompter also offered discounts to pay TV subs.

*"Tiering" is the provision of several levels of cable services from which the subscriber may choose.

OMAHA, NEBRASKA (124,000 TV Homes)

Company	Basic Service Tiers (1)	(2)	(3)	(4)	Pay TV Services HBO	Movie Ch.	Showtime	Mini-Pay
American TV & Comm.	(7) Free	(24)$6.50	(69)$ 8.00	(80)$9.50	$6.95	$7.95	$7.95	$4.95
Cablecom-General	(11) Free	(19)$2.95	(26)$ 4.95	——	$6.95	$7.95	$6.95	$3.95
Cox Cable	(17) Free	(28)$5.95	(54)$ 7.50	(66)$8.50	$6.95	——	$6.95	$3.95
Heritage Comm.	(19)$2.95	(34)$5.95	(49)$ 8.45	——	$7.95	$7.95	$7.95	$4.95
United Cable	(27)$3.95	(86)$7.95	(91)$ 9.95	——	$6.95	$6.95	$6.95	$3.95
Warner-Amex	(24)$7.45	(36)$9.45	(52)$12.45	——	$8.95	$8.95	——	$4.50

Notes: Number before rate denotes number of channels. ATC promised free installation of universal service. Cablecom-General promised an additional 17 premium services with tier 3 basic service. Cox Cable offered a fifth tier of 108 basic service channels for $10.95 using the new TOCOM converter to provide 54 VBI text channels. United promised Showtime Plus and Galavision, each $6.95. Warner-Amex offered HTN for mini-pay. All others promised Take II. ATC & Cablecom-General promised free installation of universal service tier 1. Cablecom-General offered an optional $10 installation of an A-B switch for tier 1.

DALLAS, TEXAS (391,000 TV Homes)

Service	ATC	Cox	Sammons	Storer	United	Warner
Tier 1	(7) Free	(18) Free	(24)$ 3.95	(7) Free	(27)$3.95	(24)$2.95
Tier 2	(27)$5.50	(27)$ 5.95	(44)$ 5.95	(23)$5.50	(86)$7.95	(48)$7.50
Tier 3	(60)$7.50	(54)$ 7.50	(52)$ 7.95	(35)$6.95	(91)$9.95	(80)$9.95
Tier 4	(68)$9.00	(66)$ 8.50	*(52)$10.95	(52)$7.95	——	——
Tier 5	——	(102)$10.95	——	(104)$9.95	——	——
HBO	$6.95	$ 6.95	$ 6.95	$6.95	$6.95	$7.45
Movie Ch.	$7.95	$ 8.00	$ 6.95	$6.95	$6.95	$7.45
Showtime	——	$ 6.95	$ 6.95	$6.95	$6.95	——
Showtime-PLUS	$7.95	——	$ 7.95	——	$6.95	$7.45
Galavision	$4.50	$ 6.95	$ 6.95	$6.95	$6.95	$5.95
Mini-Pay	$4.50	$ 3.95	$ 3.95	$3.95	$3.95	$4.95

Notes: Number before rate denotes number of channels. Sammons' tier 4 differs from tier 3 because interactive service is available on several channels. All applicants offered Take II mini-pay except Sammons which promised HTN and Warner which promised Family Features. Storer promised any three pay services for $19.50/mo. United specified a $1.00 discount for more than two premium services. United offered HBO and Take II with tier 1; Sammons offered HTN with tier 1 and Warner promised Family Features and Galavision with tier 1.

Source: Mansell, John, Editor, Cable TV Regulation, Paul Kagan Associates, Inc.

Because service tiers frequently combine local and distant broadcast signals with non-broadcast material, that portion of the subscriber charge allocable to secondary transmissions of broadcast signals often cannot be separated out. Such separation is, of course, necessary to calculate royalty payments.

The "free" service tiers present an even more difficult problem. No matter what royalty rate is applied to these tiers, the royalty payment will be zero. It was certainly not the intent of Congress that copyright owners receive no compensation when cable operators choose to give away broadcast programs in order to attract subscribers to other services. Indeed, the House Report states at page 175:

> Concern was expressed during the hearings on the revision legislation that cable systems may reduce the basic charge for the retransmission of broadcast signals as an inducement for individuals to become subscribers to additional services (e.g., pay-cable). Such a shift of revenue sources would have the effect of understating basic subscriber revenues and would deny copyright owners the level of royalty fees for secondary transmission contempleted by this legislation. Accordingly, such shifts of revenue sources, if they do occur, should be taken into account by the Commission in adjusting the basic rates.

The law requires copyright owners to be compensated even when cable operators give away their programs or provide them for a very modest charge as a "loss leader." The Tribunal must provide some mechanism to assure that such compensation is received.

THE TRIBUNAL SHOULD ADOPT A SELF-ADJUSTING MECHANISM TO ASSURE A CONSTANT LEVEL OF ROYALTY PAYMENTS TO COPYRIGHT OWNERS

Obviously, the complex problems faced by the Tribunal in this proceeding require innovative solutions which follow the Congressional mandate given the Tribunal as well as provide a workable system that can be easily adapted to by the cable industry and is not wasteful of the Tribunal's time and resources. Copyright Owners have devised a proposal which we believe meets these criteria.

The royalty rate paid by cable systems is comprised of two elements; (1) a schedule of fixed percentages which are (2) applied to cable system revenues. Copyright Owners propose that the second element, the revenue basis, be adjusted by the Tribunal, and that the fixed percentages be retained as provided in the statute.

This proposal reflects the fact that it is the revenue basis, not the fixed percentages, that is out of adjustment. All of the problems discussed above relate to the revenue basis -- the lagging behind inflation of subscriber charges, the tiering of services with combinations of broadcast and non-broadcast offerings, and "free" broadcast services. Thus it is reasonable and logical that the Tribunal look to the revenue basis rather than the fixed percentages to make the adjustments required by the statute.

Copyright Owners suggest that the simple and easy method for making this adjustment is to require cable systems to compute their future royalty payments on the basis of the real constant dollar value of their 1976 basic subscriber charge. This would be done as follows.

A cable operator who charged $6.00 for basic cable service in 1976 would calculate the present value of that charge at the time of preparing his Statement of Account. In October, 1976, the CPI was at 173.3, and by March of 1980 it had reached 239.8, an increase of 38.4%. Thus, the real constant dollar value of the $6.00 charge in 1976 would be $8.30 in March of 1980. ($6.00 times 1.384 equals $8.30). The cable operator would then multiply that adjusted basic subscriber charge of $8.30 times the average number of subscribers to his system during the relevant accounting period. The percentage figures specified in the statute would then be applied to the resulting adjusted revenue base.

A slightly different procedure would be followed by systems not in operation in 1976. Their royalty payment would be calculated on the basis of the present real constant dollar value of the industry average basic subscriber charge in 1976. According to FCC data, this was $6.49, which would be adjusted to $8.98 in March of 1980.

Such an adjustment procedure would work equally well for all systems, whether Form 1, 2 or 3, and for all combinations of distant signal carriage complements and service tiers. The basic calculations provided for in the statute would not change, and the statutory intent would be followed precisely because the cable system would be paying exactly the real constant dollar payment per subscriber that existed on the date of enactment of the Act. This procedure is not only consistent with the statutory mandate, it is the only feasible method of carrying out the Congressional design given the circumstances that exist today. Moreover, this system once put in place would never need further adjustment, no matter how technology and cable marketing techniques might change. It would require only that the Tribunal issue semiannually a percentage increase by which cable operators would compute the adjusted value of their subscriber charges.

THE CABLE INDUSTRY HAS NOT BEEN RESTRAINED
BY SUBSCRIBER RATE REGULATING AUTHORITIES

As a final matter, some attention must be given to the statutory provision which permits the Tribunal, at its discretion, to consider as an extenuating factor, "whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions." Section 801(b)(2)(A). Even those not directly concerned with the cable industry recognize that cable revenues and profits have soared since 1976, and that nothing -- rate regulating authorities, the FCC, high interest rates nor any other factor -- has restrained the growth and profitability of the cable industry.

To remove any doubt about the unrestrained financial growth of the cable industry, the FCC's Cable Financial Summaries for 1976 - 1979 (the last available) are attached hereto. These summaries show that cable revenues increased from $999.8 million in 1976 to over $1.5 billion in 1978. Pre-tax net income more than doubled from $57.7 million in 1976 to $137 million in 1980. Operating income reached $593 million in 1980 and operating margin before expenses of depreciation/amortization, interest and taxes remained steady at between 38 and 40%.

In the face of this rosy financial picture, the cable industry can hardly claim to have been financially restrained by rate regulating authorities. If basic cable rates have failed to keep up with inflation for whatever reason, the financial slack has been more than made up by increased revenues from other services, particularly pay TV. (Pay TV rate regulation by state and local authorities has been preempted by the FCC and pay TV rates are totally unregulated.) This shift in revenue sources was the very eventuality that prompted Congress to provide for the rate review proceeding now in progress. Clearly, the cable industry cannot use this shift as an excuse to decrease the me~~r~~ger level of copyright liability assigned by Congress.

Further evidence that regulatory restraint is not an issue in this proceeding is provided by the trend toward deregulation of cable rates. A Feb. 12, 1980 list compiled by the National Cable TV Association (See attachment) shows that over 350 communities are partially or completely deregulated.

CONCLUSION

The cable royalty adjustment procedure proposed by Copyright Owners herein provides a sensible, workable approach for the Tribunal to follow consistent with its statutory mandate. Copyright Owners respectfully request that this proposal be adopted in the Tribunal's final order concluding this proceeding.

Respectfully submitted,

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CABLE TELEVISION REVENUES APPROACHED $1 BILLION IN 1976

The Commission released today the first figures from its new automated financial data system showing that cable television operating revenues totaled $999.8 million in 1976.

Total operating expenses were $615.9 million, leaving an average operating margin of 38 percent before interest, depreciation/amortization expenses and extraordinary gains and losses.

Pre-tax net income reached $57.7 million and total assets of the industry had a book value of $2.52 billion.

Of the total revenues, $41 million, or 4 percent, were from pay cable services. The Commission noted that there were indications some operators reported pay cable revenues after deducting payments to program suppliers, rather than as gross revenues, and that the $41 million figure was somewhat understated.

The automated financial data system recently completed by the Commission was designed to provide more useful information for the government, the cable television industry and the public. Financial results for 1977 operations are expected to be released in the fall. The FCC also expects to make subsequent reports more informative by aggregating the financial data of cable systems by categories such as age, size, location and penetration of market.

The national average monthly subscriber rate was $6.49, ranging from a statewide average low of $5.39 in New Jersey to a high of $14.62 in Alaska.

(Over)

(The average subscriber rate for each state, and for the nation, was determined by weighting each subscriber rate by the number of subscribers rather than by number of systems. Subscriber counts and average rates are from the most current FCC data.)

In 1976, pay cable services were offered by 224 financial entities comprising 1,076 communities. New York, California, Florida, New Jersey and Pennsylvania were the leading States in terms of pay cable revenues.

More than 7,000 communities were served by cable TV at the end of 1976. These were consolidated into 2,300 entities for financial reporting purposes.

(A financial entity is defined as one or more cable TV community systems that report to the FCC on Form 326 as one business entity. To report in this manner, the consolidated communities must be located within a 40-mile radius of an owner-designated refence point, keep a consolidated set of bookkeeping records and be connected either by private microwave or cable.)

The average financial entity had approximately 5,400 subscribers and revenues of $426,000.

The Commission emphasized that there were very wide deviations in the averages and that therefore they should not be considered as representative of a "typical" cable operation. It said that in the future, standard deviations from the averages would be provided for key financial categories. The operating margin ranged in most States between 25 and 50 percent.

The attached tables include aggregate financial data by State and nationally. In addition, the 1976 financial statistics are given by size of entity, as measured by subscriber revenues. For example, an entity with less than $40,000 in revenues could be considered to be in a size category of 500 subscribers or less. Nationwide, there were 307 entities of this size, with total revenues of $5,718,126.

The size of entity report was planned originally to be provided for each State. However, this would have compromised the confidentiality of the data since, in several states, only one business entity appeared in several revenue size categories. Therefore, the FCC further aggregated the reports to include all States within the nine geographic regions of the United States specified by the Census Bureau.

NEWS
Federal Communications Commission
1919 M Street, N.W.
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December 26, 1978 - CT

CABLE TELEVISION REVENUES EXCEEDED $1 BILLION IN 1977 10768

The Commission today released the figures from its financial data system showing that cable television operating revenues totaled $1.2 billion in 1977.

Total operating expenses were $716.9 million, leaving an average operating margin of 40 percent before interest, depreciation/amortization expenses, taxes and extraordinary gains and losses.

Pre-tax net income reached $133.7 million and the industry's total assets had a book value of $2.45 billion.

Pay cable services yielded revenues of $85.8 million or 7 percent of total revenues.

The national average monthly subscriber rate was $6.85, ranging from a statewide average low of $5.73 in Pennsylvania to a high of $17.32 in Alaska.

> (The average subscriber rate for each state, and for the nation, was determined by weighting each subscriber rate by the number of subscribers rather than by number of systems. Subscriber counts and average rates are from the most current FCC data.)

In 1977, pay cable services were offered by 393 financial entities comprising 1,949 communities. California, New York, New Jersey, Florida, Pennsylvania, Texas and Washington were the leading states in terms of pay cable revenues.

More than 8,000 communities were served by cable TV at the end of 1977. These were consolidated into 2,600 entities for financial reporting purposes.

(over)

(A financial entity is defined as one or more cable TV community systems that report to the FCC on Form 326 as one business entity. To report in this manner, the consolidated communities must be located within a 40-mile radius of an owner-designated reference point, keep a consolidated set of bookkeeping records and be connected either by private microwave or cable.)

The average financial entity had approximately 5,000 subscribers and revenues of $468,000.

The Commission emphasized that there were wide deviations in the averages and therefore they should not be considered as representative of a "typical" cable operation. For the 1978 financial release (projected for this summer) the Commission hopes to provide standard deviations from the averages for key financial categories. The operating margin ranged, in most states, between 24 and 51 percent.

The attached tables include aggregate financial data by State and nationally (Table I). The 1977 financial statistics are also given by size of entity, as measured by subscriber revenues (Nationwide, Table II and by regions as specified by the United States Census Bureau, Table III). For example, an entity with less than $40,000 in revenues would be considered to be in a size category of 500 subscribers or less. Nationwide there were 403 entities of this size, with total revenues of $7,927,563.

These financial reports are based on filings covering 90 percent of all cable subscribers in the nation. The remaining 10 percent are subscribers to systems whose filings are incomplete, inaccurate, or delinquent. National totals have been estimated for the entire industry predicated on the large number of filings in the data base. The totals appear at the end of Table I under the heading "United States (estimated based upon 100% of subscribers)".

The Commission emphasized that only key financial categories were presented, while other accounts such as "other nonsubscriber revenues" and "extraordinary gains and losses" were not shown. The reports thus are not designed to provide a complete income statement and balance sheet picture. For example, neither total operating revenues nor total operating expenses will equal the sum of the accounts immediately preceding.

The Commission expects to provide historical data in subsequent financial releases, thus making year-to-year comparisons of the industry possible.

Comments on the data and suggestions for further information should be addressed to the Research Division of the Cable Television Bureau.

- FCC -

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23393

November 26, 1979 - CT

CABLE TELEVISION INDUSTRY REVENUES EXCEEDED $1.5 BILLION IN 1978; TOTAL ASSETS APPROACHED $3 BILLION

Today, the FCC released financial data based on the reported results of the cable television industry's operations for 1978. Operating revenues totaled over $1.5 billion, a 25% increase over 1977 revenues.

Total operating expenses were $918 million, leaving an operating income of nearly $593 million or a 39% operating margin before expenses of depreciation/amortization, interest and taxes.

Net income before taxes was approximately $137 million and the cable industry's total assets had a book value of $2.87 billion (up 18% from 1977).

Pay cable services yielded revenues of nearly $192 million or approximately 13% of total revenues.

The national average monthly subscriber rate for basic service was $7.03 in 1978, ranging from an average low of $6.03 in Pennsylvania to a high of $18.35 in Alaska. The national average monthly rate for pay cable TV was $8.60, ranging from $5.00 in Vermont to $15.99 in Alaska.

In 1978, pay cable services were offered by 760 financial entities comprising 3,079 communities in nearly every state. California, New York and New Jersey continued as the leading states in terms of pay cable revenues.

(over)

Approximately 8,200 communities with over 14 million subscribers (households) were served by cable television in 1978. These 8,200 communities were consolidated into over 2,800 financial entities for reporting purposes. A financial entity is defined as one or more cable TV community systems which report to the Commission as one business entity -- upon meeting certain ownership and technological requirements.

The average financial entity had approximately 5,000 subscribers and total revenues of $527,000 in 1978. The percentage of total revenues attributable to pay cable operations increased in 1978.

The attached tables provide financial data nationally, by region (as defined by the Census Bureau), by state and by size of system. (See List of Tables).

These financial reports are based on filings covering 91 percent of all cable subscribers in the nation. The remaining 9 percent are subscribers to systems whose filings are incomplete, inaccurate, or delinquent. National totals have been estimated for the entire industry predicated on the large number of filings in the data base. The totals appear at the end of Table III under the heading "United States (estimated based upon 100% of subscribers)".

Several financial ratios providing liquidity, leverage and profitability information are displayed for the first time in Tables IV and V.

The Commission noted that Tables I through VII present only major categories of financial information and are not designed to provide a complete income statement or balance sheet picture. For example, total revenue and expense figures will not necessarily equal the sum of the accounts immediately preceding. For a more complete picture, see Tables VIII and IX. It should also be noted that, because entities with less than 1,000 subscribers are not required to file liability and equity information, the reported sum of industry-wide assets will not exactly equal the sum of liabilities and owner's equity.

Comments on the data and suggestions for further information should be addressed to the Research Division of the Cable Television Bureau.

- FCC -

ncta

CABLE TELEVISION SUBSCRIBER RATE DEREGULATION

In 1976, the FCC eliminated former Section 76.31 (a) (4) which required local regulatory supervision of subscriber rates. See Report and Order in Docket 20681, 60 FCC 2d 672 (1976). Therein, the Commission concluded as follows:

> Rates too low may limit investment in the industry and its growth on a nationwide basis. Rates too low could also impede cable operators in their ability to comply with the requirements of the Commission's rules.

Furthermore, in those instances where reasonable rate increases are not expeditiously granted,

> ...current subscribers suffer by being precluded from receiving new services that might otherwise be offered and in some exacerbated situations may sustain a diminution of service previously provided.

Accordingly, mandatory local rate regulation was eliminated "... because it appeared that there were areas where such rate control was not necessary in light of market forces restraining rate increases even in the absence of governmental control ... there are areas or circumstances in which the regulation of regular subscriber rates may be neither desirable nor necessary ..."

Subsequently, many communities have decided either to eliminate subscriber rate regulation provisions or issue franchises which do not require rate regulations. Listed below are those cities which (1) have been de-regulated; (2) no rate regulation exists; (3) are actively seeking de-regulation; and (4) have been partially de-regulated. This list is based on information supplied NCTA, as of February 12, 1980.

ALABAMA

Florence - no regulation
Gadsden - no regulation
Glenroe - no reglation
Huntsville - no regulation
Lauderdale County - no regulation
Muscle Shoals - no regulation
Northport - no regulation
Rainbow City - no regulation
Sheffield - no regulation
Tuscaloosa - no regulation
Tuscaloosa County - no-regulation
Tuscambia - no regulation

ARIZONA

Bisbee/Naco - no regulation
Clifton/Morenci - no regulation
Flagstaff - no regulation
Globe (and unincorporated area around Globe in Gila County) - de-regulated
Heber - de-regulated
Holbrook - no regulation
Maricopa County - de-regulated
Miami - de-regulated
Page - no regulation
Prescott - no regulation
Safford - no regulation
San Manuel/Orcle/Mammouth - no regulation
Sedona/Oak Creek - no regulation
Show Low/Pinetop/Lakeside - no regulation
Sierra Vista - no regulation
Willcox - no regulation
Yarnell - no regulation
Yuma - no regulation

ARKANSAS

Harrison - de-regulated
Paragould - de-regulated
Perryville - de-regulated
Pulaski County - de-regulated
North Little Rock - de-regulated
Russellville - de-regulated
Unincorporated Boone County - no regulation

CALIFORNIA

Arcata - de-regulated
Bakersfield - de-regulated
Berkeley - de-regulated
Concord - partial de-regulation
Contra Costa County - seeking de-regulation
Delano - de-regulated
El Cajon - no regulation
Gustine - de-regulated
Hayward - partial de-regulation
Kern County - de-regulated
Lafayette - seeking de-regulation
Lancaster - de-regulated
Lake County - de-regulated
Los Angeles - no regulation
Los Banos - de-regulated
Martinez - seeking de-regulation
McFarland - deregulated
National City - no regulation
Newman - de-regulated
Oakland - de-regulated
Orange City - no-regulation
Palmdale - de-regulated
Patterson - de-regulated
Pleasant Hill - seeking de-regulation
Pomona - de-regulated
Porterville -de-regulated
Rancho Bernardo - seeking de-regulation
Red Bluff City - seeking de-regulation
Redwood City - de-regulated
San Joaquin County (outside Stockton) - de-regulated
San Jose - partial de-regulation
San Lorenzo - de-regulated
San Mateo - de-regulated
Susanville - de-regulated
Upland - de-regulated

Vallejo - de-regulated
Victorville - no regulation
Wasco - seeking de-regulation
Taft - de-regulated
Tracy - de-regulated
Trono - no regulation
Stockton - de-regulated

DELAWARE

State law allows cable vision companies to hike rates by 5% or less each year in unincorporated areas (municipalities still require a hearing) without coming before the Public Service Commission.

FLORIDA

Aburndale - de-regulated
Bartow- de-regulated
Bay County - de-regulated
Belle Glade - de-regulated
Boynton Beach - de-regulated
Boca Raton - de-regulated
Bradenton - de-regulated
Calloway - de-regulated
Cedar Grove - de-regulated
Citrus County - de-regulated
Clermont - de-regulated
Cocoa - de-regulated
Collier County - de-regulated
Crystal River - de-regulated
Dade County - de-regulated
Davenport - de-regulated
Deerfield Beach - de-regulated
Dundee - de-regulated
Eagle Lake - de-regulated
Golfview - de-regulated
Haverhill - de-regulated
Hialeah - de-regulated
Hillsborough County - de regulated
Homstead - de-regulated
Indialantic - de-regulated
Indian Harbor Beach - de-regulated
Lake Alfred - de-regulated
Lake Clark Shores - de-regulated
Lake County - no regulation
Lake Hamilton - de-regulated
Lakeland - de-regulated
Lantana - de-regulated
Lee County - de-regulated
Leon County - de-regulated
Lighthouse Point - de-regulated
Lynn Haven - de-regulated
Manatee County - de-regulated
Mongonia Park - de-regulated
Melbourne - de-regulated
Melbourne Beach - de-regulated
Melbourne Village - de-regulated
Merritt Island - de-regulated
Mineola - de-regulated
New Smyrna Beach - de-regulated
~~North Brevard - seeking~~ de-regulation
Oakland Beach - deregulated
Ocean Breeze Park - de-regulated
Ocoee - de-regulated
Orange City - de-regulated
Orlando - partial de-regulation (if City doesn't intervene within 60 days, rate is automitically instituted)
Ormond Beach - de-regulated
Osceola County - no regulation
Pahokee - de-regulated
Palatka - de-regulated
Palm Bay - de-regulated
Palm Beach County - de-regulated
Palm Shores - de-regulated
Palm Springs - de-regulated
Panama City - de-regulated
Pasco County - de-regulated
Parker - de-regulated
Patrick Air Force Base - de-regulated
Plant City - no regulation (No franchise)
Polk County - de-regulated
Pompano Beach - de-regulated
Putnam County - de-regulated
Rockledge - de-regulated
Sarasota - seeking de-regulation
Sarasota County - de-regulated
Satellite Beach - de-regulated
St. Cloud - partial de-regulation
Sewell's Point - de-regulated
South Palm Beach - de-regulated
Springfield - de-regulated
Stuart - de-regulated
Tallahassee - no regulation
Titusville - will consider de-regulation soon
Volusia County - no regulation
Winter Garden - de-regulated
Winter Haven - de-regulated
Winter Park - de-regulated

GEORGIA

Augusta - no regulation
Claxton - no regulation
Jasper - no regulation
Metter - no regulation
Ringo - no regulation
Rome - de-regulated
Summerville - de-regulated
Trenton - no regulation
Valdosta - de-regulated

IDAHO

Filer - no regulation
Gooding - no regulation
Twin Falls - no regulation
Wendell - no regulation

ILLINOIS

Altamount/St. Elmo - no regulation
Beardstown - no regulation
~~Champaign/Urbana - will consider de-regulation soon~~
Creve Coeur - no regulation
Decatur - de-regulated
Oregon - de-regulated
Washington - no regulation
~~Westville - seeking de-regulation~~

INDIANA

Clinton - no regulation
Elkhart - de-regulated
Ft. Wayne - partial de-regulation (proposed ordinance has been mended to include negative review, 60 days for city to act)
Fulton - de-regulated
Hartford City- de-regulated
Kosciusko County - de-regulated
Madison - pending de-regulation
~~Monticello - will consider de-regulation soon~~
Mt. Vernon - de-regulated
Rochester - de-regulated
Union City - de-regulated
Warsaw - de-regulated
Winona Lake - de-regulated

IOWA

Albia - de-regulated
Denison - no regulation
Elkader - no regulation
Guthrie Center - no regulation
Guttenberg - no regulation

KANSAS

Arkansas City - no regulation
Council Grove - no regulation
Fort Riley - no regulation
Grandview - no regulation
Independence - no regulation
Junction City - no regulation
Kinsley - no regulation
~~Manhattan - pending de-regulation~~
Neodesha - no regulation
Ogden - no regulation
Pratt - no regulation
St. Marys - no regulation
Wamego - no regulation

KENTUCKY

Leitchfield - no regulation
Montgomery County - no regulation
Olive Hill - de-regulated

LOUISIANA

Monroe - de-regulated
West Monroe - de-regulated

MAINE

Cape Elizabeth - no regulation
Caribou - no regulation
Fort Fairfield - no regulation
Fort Kent - no regulation
Limestone- no regulation
Madawaska - no regulation
Patten/Island Falls - no regulation
Presque Isle - no regulation
Scarborough - no regulation

MASSACHUSETTS

Bill passed in June 1979 which permits rate de-regulation where competition exists.

MARYLAND

Cumberland - no regulation
Hagerstown - de-regulated
Salisbury (county portion of Salisbury system) - de-regulated

MICHIGAN

Ahmeek - no regulation (new franchise)
Allouez - no regulation (new franchise)
Cooper City - no regulation (new franchise)
Erwin Twp. - no regulation
Grand Blanc - de-regulation
Ironwood Twp. - no regulation
Manistique - no regulation
South Haven - de-regulated

MINNESOTA

Although many Minnesota systems do not have regulation in their franchise, the state requires the city to rate regulate the cable systems.

MISSISSIPPI

Batesville - no regulation
Biloxi - no regulation
Cleveland - no regulation
Hattiesburg - no regulation
Lambert/Marks - no regulation
Louisville - no regulation
Pontotoc - no regulation

MISSOURI

Boonville - no regulation
Butler - no regulation
Carthage - no regulation
Marshall - no regulation
Maryville - no regulation
Sedalia - partial de-regulation (6% per year cost of living increase)
Warrensburg - de-regulated (up to $10 without going before city council)
Waynesville - no regulation

MONTANA

There is no rate regulation in Montana. The reason for this is that no franchises are issued, only business permits.

NEBRASKA

Columbus - de-regulated
Falls City - no regulation

NEW HAMPSHIRE

Berlin - no regulation
Claremont - no regulation
Portsmouth - no regulation

NORTH CAROLINA

Burlington - de-regulated
Fayetteville - permission to increase 10% per year
Forrest City - de-regulated
High Point - de-regulated
Raleigh - de-regulated
Spencer - de-regulated (no franchise fee)

NORTH DAKOTA

Devils Lake - de-regulated
Jamestown - de-regulated
Oaks - de-regulated
Valley City - de-regulated

OHIO

Canton - de-regulated
Columbus - seeking de-regulation
Delaware - de-regulation
Delphos - no-regulation
Franklin County - de-regulated
Jackson - de-regulated
Louisville - de-regulated
North Canton - de-regulated
Union City - de-regulated
Washington Court House - de-regulated
Wellston - de-regulated

OKLAHOMA

Norman - de-regulated
Okmulgee - de-regulated

OREGON

Hood River - de-regulated
Klamath Falls - de-regulated

Wemme - no regulation

PENNSYLVANIA

McConnellsburg - seeking de-regulation
Munhall - seeking de-regulation
Newport - no regulation
Reedsville - no regulation
Saint Clair - de-regulated
Williamsport - no regulation

SOUTH CAROLINA

Aiken City - no regulation
Aiken County (unincorporated area) - no regulation (new franchise)
Barnwell - no regulation
Blackville - no regulation
Clinton - de-regulated
Conway - no regulation
Darlington - no regulation
Florence - no regulation
Georgetown County (unincorporated area) - no regulation (new franchise)
Greenville County (unincorporated area) - no regulation (new franchise)
Laurens County - de-regulated
Laurens City - de-regulated
Marion County (unincorporated area) - no regulation (new franchise)
Myrtle Beach - no regulation
North Augusta - no regulation
North Myrtle Beach - de-regulated
Sumter - no regulation
Williston - no regulation

SOUTH DAKOTA

Sioux Falls - de-regulated

TENNESSEE

Knoxville - seeking de-regulation
Parsons/Decatruville - no regulation
Selmer - de-regulation

TEXAS

Abilene - partial de-regulation
Belton - de-regulated
Bellmead - de-regulated
Beverly Hills - de-regulated
Bronte - de-regulated
Coperas Cove - de-regulated
Cotulla - de-regulated
Dimmit - no regulation
Forest Cove - de-regulated
Fort Davis - de-regulated
Gatesville - de-regulated
Gilchrist - no regulation
Goliad - de-regulated
Harker Heights - de-regulated
Hearne - de-regulated
Hewitt - de-regulated
Hitchcock - no regulation
Horizon City - no regulation
Huntsville - de-regulated
Killeen - de-regulated
Kingwood - de-regulated
La Marque - no regulation
Lubbock - partial de-regulation
Marathon - no regulation
McGregor - de-regulated
Midland - de-regulated
Munday - de-regulated
Nolanville - de-regulated
Northcrest - de-regulated
Northwest Houston (Spring) - no regulation
Palo Pinto - no regulation
Pecos - de-regulated
Port O'Connor - no regulation
Possum Kingdom Lake - no regulation
Presidio - no regulation
Robinson - de-regulated
Rosebud - no regulation
Rusk - partial de-regulation
Socorro/Moon City - no regulation
Stamford - de-regulated
Sunray - no regulation
Sweetwater - partial de-regulation
Temple - de-regulated
Waco - de-regulated
Waterwood - no regulation
Waynesboro - no regulation
West El Paso County - no regulation
The Woodlands - no regulation

VIRGINIA

Galax - no regulation
Hampton - de-regulated
Saltville - no regulation

WASHINGTON

Bingen - no regulation
Greys Harbor County - no regulation
Newport - de-regulated
Ocean Shores - no regulation
Spokane - modified
Walla Walla - de-regulated
White Salmon - no regulation

WEST VIRGINIA

Osage - no regulation
Rowlesburg - no regulation
Star City - no regulation
Weirton - no regulation

WISCONSIN

Altoona - no regulation
Ashland - no regulation
Bayfield - no regulation
Bloomer - no regulation
Chippewa Falls - no regulation
Fond du Lac - no regulation
Hallie - no regulation
Marshfield - no regulation
Merrill - no regulation
Montreal - no regulation
Neenah - no regulation
Oshkosh - de-regulated
Seymour - no regulation
Union Township - no regulation
Washington - no regulation
Wausau - de-regulated
Wisconsin Rapids - no regulation

NATIONAL ASSOCIATION OF BROADCASTERS

1771 N STREET, N.W., WASHINGTON, D.C. 20036 · (202) 293-3560

JAMES J. POPHAM
ASSISTANT GENERAL COUNSEL

Corrections made 3 June 80 CEC

June 2, 1980

Ms. Mary Lou Burg
Chairman
Copyright Royalty Tribunal
1111 Twentieth Street, N.W.
Washington, D.C. 20006

Re: CRT 80-3

Dear Chairman Burg:

On behalf of the parties submitting the Joint Comments of Copyright Owners (Joint Comments) in response to the Tribunal's Notice of January 1, 1980, 45 Fed. Reg. 63, I am writing to advise the Tribunal of several corrections which should be made in the Joint Comments. They are as follows:

(1) On page 5, Table 3, the % Change in the Consumer Price Index for 1978 should read 7.7%, not 13.9%.

(2) On page 6, the fourth and fifth lines of the second paragraph should read, "1975-78, the FCC-measured basic rates lagged the CPI by 7.1% [not 8%] while PKA-measured basic rates lagged 8.2% [not 9%] over the same period." The figure 15.4% in the last line of the second paragraph should be corrected to read 13.8%.

(3) On page 6, the last line of the third paragraph should read "2.3%, but the gap widened to 4.0% [not 10.2%] in 1978 and 8.6% in 1979."

(4) On page 6, the last line of the fourth paragraph should read, "would have to charge $9.45 [not $10.00] today."

(5) On page 6, Table 4, the % Change CPI for 1978, again, should be 7.7%, not 13.9%. As a result, the figure in Column (3) for 1978 should be 4.0%, not 10.2%. Lastly, the "Rate Necessary to Keep Pace with Inflation" for 1978, 1979, and March, 1980, should read 7.70 [not 8.15], 8.57 [not 9.07], and 9.45 [not 10.00], respectively.

(6) On page 10, the figure 15.4% in the seventh and tenth lines of the first full paragraph should be corrected

to read 13.8%. The same correction should be made on page 11, third full paragraph, first line.

We regret any inconvenience these errors may have caused the Tribunal. Please, do not hesitate to contact me if you have any questions.

Very truly yours,

Jim Popl

JJP/im

cc: Commissioner Coulter
Commissioner James
Commissioner Brennan
Commissioner Garcia
Stuart Feldstein, Esq.
Brenda Fox, Esq.
Fritz Attaway, Esq.
Jim Fitzpatrick, Esq.
Bernard Korman, Esq.
Edward Chapin, Esq.
Philip Hochberg, Esq.